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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/015,399	01/29/98	HINKKANEN	A 2328-111

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HM12/0619

EXAMINER
VANDER VEGT, F

ART UNIT	PAPER NUMBER
1644	21

DATE MAILED: 06/19/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

# Office Action Summary

Application No.  
09/015,399

Applicant(s)  
Hinkkanen

Examiner  
F. Pierre VanderVegt

Art Unit  
1644



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Mar 29, 2001
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 17-28 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 17-21, 23-25, 27, and 28 is/are rejected.
- 7) ☒ Claim(s) 22 and 26 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

New claims 21-28 have been added.

Claims 1-10 and 17-28 are currently pending in this application.

- 5      1.      In view of the amendment filed March 29, 2001, no outstanding rejections are maintained.  
2.      **The following new ground of rejection was necessitated by Applicant's amendment.**

#### *Claim Rejections - 35 U.S.C. § 112*

- 10      3.      Claims 1-10, 17-21, 23-25, 27 and 28 are rejected under 35 U.S.C. 112, first paragraph,  
as containing subject matter which was not described in the specification in such a way as to  
reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application  
was filed, had possession of the claimed invention.

15      The base claims 1 and 18 have been amended to recite a linker peptide of "nine or more  
amino acid residues." Applicant asserts that the amendment has support in the instant  
specification due to the disclosure of the linkers SEQ ID NO: 2 and SEQ ID NO: 4. However,  
the only linkers these provide support for are said specific linkers. The disclosure of two specific  
linkers of nine amino acid residues do not provide descriptive support for other linkers of the  
same length or longer. Therefore the recitation of "nine or more amino acid residues" constitutes  
new matter and must be removed. Similarly, the recitation of "six or more amino acid residues of  
20      said linker are lysine" constitutes new matter because there is no disclosure of such species other  
than SEQ ID NO: 2 and SEQ ID NO: 4.

#### *Allowable Subject Matter*

- 25      4.      Claims 22 and 26 are objected to as being dependent upon a rejected base claim, but  
would be allowable if rewritten in independent form including all of the limitations of the base  
claim and any intervening claims.

*Conclusion*

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

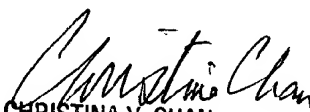
5 A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37  
10 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Papers related to this application may be submitted to Technology Center 1600, Group  
15 1640 by facsimile transmission. Papers should be faxed to Group 1640 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The fax phone number for official documents to be entered into the record for Art Unit 1644 is (703)305-3014.

Any inquiry concerning this communication or earlier communications from the Examiner  
20 should be directed to F. Pierre VanderVegt, whose telephone number is (703)305-6997. The Examiner can normally be reached Tuesday through Friday and odd-numbered Mondays (on year 2001 365-day calender) from 6:30 am to 4:00 pm ET. A message may be left on the Examiner's voice mail service. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Ms. Christina Chan can be reached at (703)308-3973. Any inquiry of a  
25 general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist, whose telephone number is (703)308-0196.

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F. Pierre VanderVegt, Ph.D.  
Patent Examiner  
Technology Center 1600  
June 18, 2001

  
CHRISTINA Y. CHAN  
SUPERVISORY PATENT EXAMINER  
GROUP 1600 1640